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6 Attorneys for Plaintiff  
7 PAUL J. GAYNOR

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9  
10 THE UNITED STATES DISTRICT COURT  
11  
12 NORTHERN DISTRICT OF CALIFORNIA

13 PAUL J. GAYNOR,

14 Case No. 3: 16-cv-06305-WHO

15 Plaintiff,

16 v.  
17 AHMAD CHATILA, an individual and  
18 BRIAN WUEBBELS, an individual,  
19 Defendants.  
20  
21  
22

**STIPULATION AND ORDER (1)  
PERMITTING PLAINTIFF TO FILE  
A SECOND OPPOSITION TO  
DEFENDANT BRIAN WUEBBELS'  
MOTION TO DISMISS COMPLAINT  
FOR DAMAGES AND (2)  
CONTINUING THE DATE FOR THE  
HEARING FOR DEFENDANTS'  
MOTIONS TO DISMISS,  
DEFENDANT CHATILA'S MOTION  
TO STRIKE, AND INITIAL CASE  
MANAGEMENT CONFERENCE IN  
LIGHT OF THE ADDITIONAL  
BRIEFING**

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1 Pursuant to Rule 16 of the Federal Rules of Civil Procedure and Civil Local Rules 7-12  
2 and 16-2, Plaintiff Paul J. Gaynor and Defendants Ahmad Chatila and Brian Wuebbels  
3 (collectively, the “Parties”), by and through their respective counsel of record, jointly stipulate  
4 and agree as follows:

5 **WHEREAS**, on January 27, 2017, Defendant Wuebbels filed a Motion to Dismiss  
6 Complaint for Damages (Dkt. No. 39) and Joinder to Defendant Chatila’s Motion to Dismiss  
7 (Dkt. No. 40).

8 **WHEREAS**, on February 9, 2017, Plaintiff filed his Opposition to Defendant Wuebbels’  
9 Motion to Dismiss (Dkt. No. 46), but counsel for Plaintiff inadvertently did not substantively  
10 respond to Defendant Wuebbels’ Motion to Dismiss Complaint for Damages, as counsel for  
11 Plaintiff mistakenly missed Defendant Wuebbels’ Motion to Dismiss Complaint for Damages  
12 (Dkt. No. 39) that was filed on the same day as Defendant Wuebbels’ Joinder to Defendant  
13 Chatila’s Motion to Dismiss (Dkt. No. 40).

14 **WHEREAS**, on February 17, 2017, Defendant Wuebbels filed his Reply in Support of  
15 Motion to Dismiss Complaint for Damages (Dkt. No. 47).

16 **WHEREAS**, on February 21, 2017, counsel for Plaintiff Gaynor, after reviewing  
17 Defendant Wuebbels’ Reply in Support of Motion to Dismiss Complaint for Damages (Dkt. No.  
18 47), discovered that Defendant Wuebbels had filed a Motion to Dismiss Complaint for Damages  
19 (Dkt. No. 39), which Plaintiff Gaynor had not substantively opposed.

20 **WHEREAS**, on February 21, 2017, counsel for Plaintiff informed counsel for Defendant  
21 Wuebbels of counsel for Plaintiff’s mistake, and counsel for Plaintiff stated they were prepared  
22 to file a motion for relief due to mistake, inadvertence, and excusable neglect under Federal Rule  
23 of Civil Procedure 60(b)(1).

24 **WHEREAS**, counsel for Plaintiff asked counsel for Defendant Wuebbels to agree to a  
25 stipulation allowing Plaintiff to file a second Opposition to Defendant Wuebbels’ Motion to  
26 Dismiss and to modify the briefing schedule accordingly so that counsel for Plaintiff would not  
27 need to file a motion for relief due to mistake, inadvertence, and excusable neglect under Federal  
28 Rule of Civil Procedure 60(b)(1).

1           **WHEREAS**, counsel for Defendant Wuebbels, in light of Plaintiff's representation,  
2 agreed to stipulate to a new briefing schedule that would permit Plaintiff Gaynor to file a second  
3 opposition to Defendant Wuebbels' Motion to Dismiss Complaint for Damages (Dkt. No. 39) on  
4 or before Friday, March 31, 2017, and permit Defendant Wuebbels to file a reply brief thereto on  
5 or before Friday, April 14, 2017.

6           **WHEREAS**, hearing on (1) Defendant Wuebbels' motions to dismiss (Dkt. 39); (2)  
7 Defendant Chatila's motion to dismiss (Dkt. 29); (3) Defendant Chatila's motion to strike (Dkt.  
8 30); and (4) the Initial Case Management Conference is currently set for April 5, 2017.

9           **WHEREAS**, in light of this additional briefing and proposed briefing schedule, the  
10 Parties have conferred and agree to continue the hearing date for (1) Defendant Wuebbels'  
11 motions to dismiss (Dkt. 39); (2) Defendant Chatila's motion to dismiss (Dkt. 29); (3) Defendant  
12 Chatila's motion to strike (Dkt. 30); and (4) the Initial Case Management Conference to May 31,  
13 2017, or as soon thereafter as is convenient for the Court.

14           **WHEREAS**, the Parties have conferred and agree that continuing the hearing date will  
15 accommodate the new briefing schedule by permitting the Court adequate time to review the  
16 briefs related to Defendant Wuebbels' Motion to Dismiss before the hearing, and it remains in  
17 the interest of judicial efficiency to keep the hearing on the pending motions and Initial Case  
18 Management Conference consolidated on the same date:

19           **THEREFORE, IT IS STIPULATED AND AGREED THAT:**

20           1) The parties jointly request that the Court modify the briefing schedule for Defendant  
21 Wuebbels' Motion to Dismiss Complaint for Damages (Dkt. No. 39) such that  
22 Plaintiff may file a second opposition to Defendant Wuebbels' Motion to Dismiss  
23 Complaint for Damages (Dkt. No. 39) on or before Friday, March 31, 2017, and  
24 Defendant Wuebbels may file a reply brief thereto on or before Friday, April 14,  
25 2017; and

26           2) The parties jointly request that the Court continue the hearing dates for Defendant  
27 Chatila's and Defendant Wuebbels' motions to dismiss, Defendant Chatila's motion

1 to strike, and the date of the Initial Case Management Conference to May 31, 2017,  
2 or as soon thereafter as is convenient for the Court.

3 Respectfully submitted,

4 DATED: February 28, 2017

LOUDERBACK LAW GROUP

5 By:

6 /s/ Charles M. Louderback

7 Charles M. Louderback

Stacey L. Pratt

8 Attorneys for Plaintiff PAUL GAYNOR

9 DATED: February 28, 2017

MUNGER, TOLLES & OLSON LLP

11 By:

12 /s/ E. Martin Estrada

13 E. Martin Estrada

Jessica Reich Baril

14 Attorneys for Defendant BRIAN WUEBBELS

15 DATED: February 28, 2017

GIBSON, DUNN & CRUTCHER LLP

16 By:

17 /s/ Sarah Zenewicz

18 Joel M. Cohen

Gabrielle Levin

Sarah Zenewicz

19 Attorneys for Defendant AHMAD CHATILA

20 **CONSENT TO ELECTRONIC FILING**

21 I have concurrence in the filing of this document which has been obtained from  
22 E. Martin Estrada and Sarah Zenewicz, which shall serve in lieu of their signatures on this document.

23 DATED: February 28, 2017

LOUDERBACK LAW GROUP

24 By:

25 /s/ Charles M. Louderback

26 Charles M. Louderback

27 Attorneys for Plaintiff PAUL GAYNOR

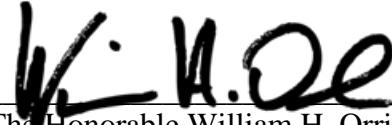
1 [PROPOSED] ORDER  
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3 Pursuant to the parties' stipulation, IT IS SO ORDERED that  
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5 1) The briefing schedule for Defendant Wuebbels' Motion to Dismiss Complaint for  
6 Damages (Dkt. No. 39) is modified such that Plaintiff Gaynor may file a second  
7 opposition to Defendant Wuebbels' Motion to Dismiss Complaint for Damages (Dkt.  
8 No. 39) on or before Friday, March 31, 2017, and Defendant Wuebbels may file his  
9 reply brief thereto on or before Friday, April 14, 2017; and  
10  
11 2) The hearing date for Defendant Chatila's and Defendant Wuebbels' motions to  
12 dismiss, Defendant Chatila's motion to strike, and the date for the Initial Case  
13 Management Conference is continued to May 31, 2017 at 2:00 p.m.

14 DATE: March 2, 2017

15 By:

16   
17 The Honorable William H. Orrick  
18 United States District Judge